

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NORTH CAROLINA, SOUTHERN DIVISION
FILE NO. 7:17-cv-00071-FL

| | | |
|------------------------------------|---|-------------------------|
| JOHNNY SMALL, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | <u>PROTECTIVE ORDER</u> |
| |) | |
| CITY OF WILMINGTON, J.J. LIGHTNER, |) | |
| DONNA BROWN, WAYNE NORRIS, |) | |
| DARRYL NESTER, JOSEPH |) | |
| NEUSCHAEFER, UNKNOWN EMPLOYEES |) | |
| OF THE WILMINGTON POLICE |) | |
| DEPARTMENT and UNKNOWN SURETY |) | |
| FOR THE CITY OF WILMINGTON, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

NOW COME the North Carolina State Crime Laboratory (hereinafter State Crime Laboratory), and the parties designated below, by and through undersigned counsel, and stipulate and agree to the entry of this Protective Order requiring the release, subject to the conditions below, to the attorneys for the Plaintiff and Defendants, of the following items for their use in connection with any proceeding involving the above referenced case:

An electronic copy of State Crime Laboratory investigatory file no. R2016-12721.

1. Plaintiff Johnny Small has requested access to the above referenced State Crime Laboratory file through discovery pursuant to the Rules of Civil Procedure.
2. State Crime Laboratory files are records of criminal investigations that may be released to the parties only

by Order of this Court pursuant to N.C.G.S. §132-1.4.

3. State Crime Laboratory file no. R2016-12721 contains materials which may be material and relevant to the subject matter of the instant case.
4. The attorney for the Plaintiff attests that there is no ongoing criminal investigation, prosecution or other criminal proceeding associated with the file that has been requested or that the prosecuting district attorney has no objection to the file being released prior to disposition of any ongoing criminal prosecution.
5. Therefore, access to and the use of any documents, or any part thereof, of the materials produced pursuant to this Protective Order shall be limited to:
 - A. A Court with jurisdiction, including its staff and any jury selected in this case, under such safeguards as are provided in this Order or as are required by the Court in the event any confidential matter is to be used or introduced at trial;
 - B. The parties and attorneys of record for the parties, together with their paralegals, investigators and employees actually working on the case at any time;
 - C. Court reporters, their transcribers, assistants and

employees;

D. Any potential or actual witness to the extent disclosure of a document subject to this Order is necessary to retain or prepare the witness, or to elicit testimony relevant to matters at issue in this case; and

E. Outside experts consulted or retained by counsel in connection with preparation for trial or trial.

6. Persons who are permitted access to the materials referenced herein pursuant to paragraph 5 are hereby ordered not to show, convey or reproduce any documents so designated or parts thereof, or copies thereof, or any matter contained therein, or any extracts or summaries thereof, to any individual, or to any entity that would not otherwise have access to said documents under the provisions of this Protective Order. The records shall not be further distributed in any manner without further Order of this Court.

Therefore it is ORDERED that the State Crime Laboratory provide one electronic copy of Laboratory file nos. R2016-12721 to counsels for the Plaintiff and Defendants subject to the limitations on access and release of the same materials as described in paragraphs 5-6 above.

This the 25th day of July 2018.



Honorable Louise Flanagan
United States District Court Judge

Consented to:

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